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OFFICE OF PETITIONS

In re Application of :
Dale McCarthy :
Application No. 10/781,243 : ON PETITION
Filed: February 18, 2004 :
Attorney Docket No.: 219507-000065 :

This is a decision on the petition filed July 19, 2004 (certificate of mailing July 13, 2004), requesting in effect, that a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice") mailed May 18, 2004 be withdrawn.

The application was filed on February 18, 2004. However, on May 18, 2004, the Office of Initial Patent Examination mailed the "Notice" stating that the application had been accorded a filing date of February 18, 2004 and advising applicant that figures 1a and 1b described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner contends Figures 1a and 1b were not missing because figures 1a and 1b do not exist, there is only figure 1.

It is obvious from the petition that no drawings were actually missing on February 18, 2004. However, the Notice to File Omitted Item(s) in a Nonprovisional Application mailed on May 18, 2004 was correct in stating that Figures 1a and 1b appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

Accordingly, the petition must be dismissed.

Since the petition was not necessitated by any error on the part of the Office, the \$130 petition fee will not be refunded.

The Office acknowledges receipt of the preliminary amendment submitted with the instant petition.

The application will be processed and examined using the application papers filed on February 18, 2004.

The application is being returned to the Office of Initial Patent

Examination for further processing with a filing date of February 18, 2004, using the papers supplied on that date.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

A handwritten signature in cursive script, reading "Charlema R. Grant".

Charlema R. Grant
Petition Attorney
Office of Petitions